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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,561	04/03/2001	Cindy A. Sprecher	00-22	2838
7590 11/12/2003			EXAMINER	
Jennifer K. Johnson, J.D. ZymoGenetics, Inc. 1201 Eastlake Avenue East Seattle, WA 98102			LI, RUIXIANG	
			ART UNIT	PAPER NUMBER
			1646	

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/825,561	<b>Applicant(s)</b> SPRECHER	
	<b>Examiner</b> Ruixiang Li	<b>Art Unit</b> 1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24, 32, 33 and 36-75 is/are pending in the application.
- 4a) Of the above claim(s) 1-24, 38-47 and 53-60 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36, 37, 48-51, 61-75 is/are allowed.
- 6) ☒ Claim(s) 32, 33 and 52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
     1. ☐ Certified copies of the priority documents have been received.  
     2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>15</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### **I. Status of Application, Amendments, and/or Claims**

Applicants' Response filed on August 18, 2003 has been entered in full. Claims 31 and 35 have been canceled. Claims 32, 33, 36, 37, 49-52, 62-71 have been amended. Claims 72-75 have been added. Claims 1-24, 32, 33, and 36-75 are pending. Claims 32, 33, 36, 37, 48-52, and 61-75 are currently under consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

### **II. Withdrawn Objections and/or Rejections**

As a result of Applicants' amendment, all rejections/objections not reiterated herein have been withdrawn by the Examiner.

### **III. Claim Rejections Under 35 U. S. C. § 102 (e)**

The Examiner notes that claims 32, 33, and 52 should have been included in the 102 (e) rejection set forth in Paper No. 12 & 17. Thus, rejection of claims 32, 33, and 52 is set forth below as a new ground rejection.

Claims 32, 33, and 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Novak et al. (U.S. Patent No. 6,307,024, October 23, 2001; filed upon March 9, 2000).

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Novak et al. teach the exactly same Zalpha11 cytokine receptor recited by the instant claims (Abstract; column 5, last paragraph) comprising an amino acid sequence of SEQ ID NO:6. The Zalpha11 cytokine receptor binds to a Zalpha11 ligand (See, e.g., Claim 1) comprising the amino acid sequence of SEQ ID NO: 10. The Zalpha11 cytokine receptor, by its nature, would form a heterodimeric or multimeric receptor complex or such a complex further comprising a soluble class I cytokine receptor. Novak et al. further teach Zalpha11 receptor polypeptide containing C-terminal GluGlu (EE) tags (See, e.g., Examples 10 and 11). Thus, the reference of Novak et al. meets the limitations of claims 32, 33, and 52.

Examiner further notes that regardless whether Novak et al. teach the Zalpha11 cytokine receptor forms a heterodimerix or multimeric receptor complex, the functions and activities of Zalpha11 cytokine receptor are inherent in the structure of the molecule. Newly discovered properties of a compound known in the art do not render the compound novel and thus patentable. Since the instant claims are drawn to the same Zalpha11 cytokine receptor taught by Novak et al., the reference of Novak et al. anticipates the claims.

#### **IV. Conclusion**

Claims 36, 37, 48-51, 61-75 are allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (703) 306-0282. The examiner can normally be reached on Monday-Friday, 8:30 am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308-6564. The fax phone number for this Group is (703) 305-3014 or (703) 308-4242.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [yvonne.eyler@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Ruixiang Li  
Examiner  
November 7, 2003

  
GARY KUNZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600